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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 628]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 628 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 335,141 cartons during the period August 28 through September 3, 1988. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 628 (§ 910.928) is effective for the period August 28 through September 3, 1988.

FOR FURTHER INFORMATION CONTACT: Raymond C. Martin, Section Head, Volume Control Programs, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 447-5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory action to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

This regulation is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act," 7 U.S.C. 601-674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the marketing policy for 1988-89. The committee met publicly on August 23, 1988, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and unanimously recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that the demand for lemons is good.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

For the reasons set forth in the preamble, 7 CFR Part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR Part 910 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. Section 910.928 is added to read as follows:

Note.—This section will not appear in the Code of Federal Regulations.

§ 910.928 Lemon Regulation 628.

The quantity of lemons grown in California and Arizona which may be handled during the period August 28, 1988, through September 3, 1988, is established at 335,141 cartons.

Dated: August 24, 1988.

Robert C. Keeney,
Deputy Director, Fruit and Vegetable Division.

[FR Doc. 88-19550 Filed 8-25-88; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 958

[AMS-FV-88-052 FR]

Onions Grown in Certain Designated Counties in Idaho and Malheur County, Oregon; Final Rule Clarifying Grade Terminology and Adding Container Marking Requirements to the Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule requires persons who handle onions under Marketing Order No. 958 to mark containers of U.S. Commercial grade onions with the grade. The rule also specifically lists "U.S. Commercial" as a grade which may be shipped by such handler. These changes are necessary in order to identify shipments of U.S. Commercial grade onions, to improve the marketing of onions, and to clarify the application of current grade requirements.

EFFECTIVE DATE: August 26, 1988.

FOR FURTHER INFORMATION CONTACT: Robert F. Matthews, Marketing Order Administration Branch, Fruit and

Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456, telephone: (202) 447-2431.

SUPPLEMENTARY INFORMATION: This rule is effective under Marketing Order No. 958 (7 CFR Part 958), regulating the handling of onions grown in certain designated counties in Idaho and Malheur County, Oregon. This order is authorized by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 20 handlers of Idaho-Eastern Oregon onions subject to regulation under this marketing order, and approximately 360 onions producers. Approximately 30 importers of onions are subject to the onion import regulation. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of Idaho-Eastern Oregon onions and the majority of importers may be classified as small entities.

The handling requirements for Idaho-Eastern Oregon onions are specified in § 958.328 [47 FR 32919 (July 30, 1982) as amended at 49 FR 31257 (August 6, 1984) and 50 FR 50157 (December 8, 1985)]. That regulation establishes grade and size requirements for each of the three types of onions grown in the production area—white, red, and all other varieties, principally yellow varieties. Yellow varieties comprise the vast majority of fresh market shipments, accounting for approximately 90 percent of this season's total to date. The remaining 10 percent of fresh movement is divided about evenly between white and red varieties.

For each of the varieties, the regulation establishes that no person may handle any onions which do not meet the minimum grade requirement of U.S. No. 2 as defined in the U.S. Standards for Grades of Onions (7 CFR 51.2830-51.2854, 51.3195-51.3209). The three grades of onions permissible to ship are, in descending order of quality, U.S. No. 1, U.S. Commercial, and U.S. No. 2.

At its February 17 and May 10 meetings the committee unanimously recommended that containers of U.S. Commercial grade onions shipped under the order be so marked. The objective is to ensure that buyers are aware that shipments consist of onions of U.S. Commercial grade quality and not U.S. No. 1 or U.S. No. 2 grade quality. Peeling has been a problem with sweet Spanish (yellow) onions during the 1987-88 shipping season. The outer skins would fall off, exposing the fleshy inner scales. However, except for the lack of outer skins, the onions would normally meet U.S. No. 1 grade requirements. Many of these lots were shipped as U.S. Commercial grade, which is better than U.S. No. 2, the minimum quality required under the order. The consensus among shippers was that by shipping the onions without outer skins under U.S. Commercial grade, a better price would be obtained in the marketplace than for U.S. No. 2 grade.

After several carlots of U.S. Commercial grade onions had been shipped, some shippers complained that such shipments were adversely affecting sales and prices of U.S. No. 1 grade onions.

According to committee records, fewer than 50 loads, about three-tenths of one percent of total shipments, have been marketed as U.S. Commercial grade this season, and only three shippers handled onions of this grade. However, this rule will apply uniformly to all handlers of U.S. Commercial grade onions regulated by Marketing Order No. 958.

Onion disposition reports compiled by the committee for the August 1987 to April 1988 period indicate that of the 15,305 carlots of yellow onions marketed fresh, 14,660 carlots of 96 percent were U.S. No. 1 grade. Similar grade breakdowns for white and red varieties are not compiled.

Under this rule, containers of U.S. Commercial grade onions are the only ones required to be marked. Most shipments of U.S. No. 1 grade onions are already marked, although this is not required by the regulation. U.S. No. 2 grade onions are readily distinguished from No. 1 grade onions, and comprise only four percent of the shipments. For these reasons, the committee believes that container marking requirements for all grades are unnecessary. Further, the purpose of the rule is to identify shipments of U.S. Commercial grade onions, not to discourage such shipments. Each grade has its place in the marketplace. U.S. No. 1 onions are customarily shipped for fresh market consumer sales. U.S. Commercial and U.S. No. 2 grade onions generally go to other outlets for processing into products such as onion rings, or chopping for fast food outlets, or manufacturing into sauces.

The committee considered several alternatives to the container marking requirement. One was changing the minimum grade to U.S. No. 1, thus eliminating both U.S. Commercial and U.S. No. 2 grades. Another was to require U.S. Commercial as the minimum grade. However, the consensus was that these alternatives would limit the choices buyers have and also cause hardship on those growers with a high proportion of their crop in the lower grades. Other alternatives included recommending tightening tolerances for U.S. Commercial grade, and making no change in the regulations. All of these were discussed and dismissed as unsuitable solutions.

Onions are typically shipped in cardboard boxes or mesh bags containing 50 pounds. These containers could be permanently labeled to indicate U.S. Commercial grade with a stencil, rubber stamp, or a separate press run during printing. Consequently, the cost to handlers of complying with this rule will be minimal.

In addition to the marking requirement, the committee recommended a change in the wording of the grade requirements for yellow onions. Some confusion exists as to whether U.S. Commercial grade onions can be shipped since this grade is not specifically listed in the current grade requirements. The committee therefore recommended adding "U.S. Commercial" after "U.S. No. 2" in paragraph (a)(3)(i) of the regulation which pertains to yellow onions and recommended a similar change in paragraph (a)(1) of the regulation pertaining to white varieties for conformity.

Section 8e of the Agricultural Marketing Agreement Act of 1937 requires that when certain domestically produced commodities, including onions, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements. Section 8e also provides that whenever two or more marketing orders regulating a commodity produced in different areas of the United States are concurrently in effect, the Secretary shall determine which of the areas produces the commodity in direct competition with the imported commodity. Imports then must meet the quality standards set for the particular area.

In the case of onions, the current import regulation (7 CFR 980.117) specifies that import requirements for onions be based on those requirements in effect for onions grown in certain designated counties in Idaho, and Malheur County, Oregon (M.O. 958) from June 1 through March 9 of each marketing year and on those requirements in effect for onions grown in designated counties of south Texas (M.O. 959) for the remainder of the year.

The changes to § 958.328 require no changes in the language of § 980.117 or the present paragraph (g) of § 958.328 *Applicability to imports*.

Further, miscellaneous changes are made to the unmarked introductory paragraph in § 958.328. These changes clarify present requirements and conform paragraph references to other changes.

Notice of this action was published in the **Federal Register** on June 22, 1988 (53 FR 23404) allowing interested persons until July 22, 1988, to file written comments. One comment was received from the manager of the committee. The comment stated that it was the intent of the committee that the proposed grade markings be of a permanent nature, as opposed to pressure sensitive labels. It was therefore suggested that the word "permanent" be included in the marking requirement. This point is found to have merit, and the proposal is so changed.

Based on the above, the Administrator of AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matters, including information and recommendations submitted by the committee, the comment on the proposal, and other available information, it is found that the following amendment will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that (1) shipments of onions grown in the production area have begun, (2) to maximize benefits to the industry this regulation should apply to as many shipments as possible during the marketing season, (3) the action was proposed at open meetings of onion producers and handlers in the production area, and (4) compliance with this regulation requires no special preparation on the part of handlers.

List of Subjects in 7 CFR Part 958

Marketing agreements and orders, onions, Idaho, Oregon

For the reasons set forth in the preamble, 7 CFR Part 958 is hereby amended as follows:

PART 958—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

1. The authority citation for 7 CFR Part 958 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 958.328 *Handling regulation* is amended by: revising the introductory paragraph; inserting the words "or U.S. Commercial" after the words "U.S. No. 2" in paragraphs (a)(1) (i) and (ii) and (a)(3)(i); redesignating paragraphs (b), (c), (d), (e), (f), and (g) as (c), (d), (e), (f), (g), and (h), respectively; adding a new paragraph (b); and revising the first sentence of newly redesignated (g) to read as follows:

Note: This section will appear in the Code of Federal Regulations.

§ 958.328 Handling regulation.

No person shall handle any lot of onions, except braided red onions, unless such onions are at least "moderately cured," as defined in paragraph (g) of this section, and meet the requirements of paragraphs (a), (b), and (c) of this section, or unless such onions are handled in accordance with paragraphs (d) and (e) or (f) of this section.

(b) *Pack.* Onions packed as U.S. Commercial grade shall have the grade marked permanently and conspicuously on the container.

* * * * *

(g) *Definitions.* The terms "U.S. No. 1," "U.S. Commercial," and "U.S. No. 2" have the same meaning as defined in the United States Standards for Grades of Onions (Other Than Bermuda-Granex-Grano and Creole Types), as amended (7 CFR 51.2830-2854), or the United States Standards for Grades of Bermuda-Granex-Grano Type Onions (7 CFR 51.3195-51.3209), whichever is applicable to the particular variety, or variations thereof specified in this section.

* * * * *

Dated: August 23, 1988.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 88–19484 Filed 8–25–88; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1946

Agricultural Loan Mediation Program

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) adopts its proposed rule which was published on May 16, 1988 (53 FR 17198). This action is being taken to add a new regulation to implement subtitles A and B of Title V of the Agricultural Credit Act of 1987 (Pub. L. 100–233), enacted on January 6, 1988. This action is needed to provide the certification requirements a State's agricultural loan mediation program must meet in order for FmHA and other agencies of the Department of Agriculture to participate in mediations conducted pursuant to a State's agricultural loan mediation program, and to enable a State to receive a Federal matching grant(s) to be used for the operation and administration of the program. The intended effect of this action is to establish procedures for certification and for administering the matching grant program, and sets out FmHA's duty to participate in such programs.

EFFECTIVE DATE: August 26, 1988.

FOR FURTHER INFORMATION CONTACT: Chester Bailey, Assistant to the Assistant Administrator, Farmer Programs, Farmers Home Administration, USDA, South Agriculture Building, Room 5025, Washington, DC 20250, telephone (202) 382–1471.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291, and has been determined to be "nonmajor," since the annual effect on the economy is less $100 million and there will be no significant increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. Furthermore, there will be no adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign-based enterprises in domestic or export markets. This action is not expected to substantially affect budget outlays, more than one agency, or to be controversial. Additional efforts to administer the changes are expected to be minimal. Increased program costs are, therefore, not anticipated. The net result is expected to provide better service to agricult producers and their creditors.

Public reporting burden for this collection information is estimated to vary from 2 to 16 hours per response, with an average of 5.7 hours per response including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404-W, Washington, DC 20250; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20250.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that this proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354), the Administrator of the Farmers Home Administration has determined that this action will not have a significant economic impact on a substantial number of small entities.

Pub. L. 100-233 establishes a procedure under which a State, upon its application, can be certified by the Secretary of Agriculture as a "qualifying" State if the State's agricultural loan mediation program meets certain requirements set out in the statute. The Secretary of Agriculture has delegated the responsibility for State certification and administration of the matching grant program to the Administrator of the Farmers Home Administration (FmHA).

Discussion of the Comments

On May 16, 1988, FmHA published in the **Federal Register** (53 FR 17198) a proposed rule giving interested parties until June 15, 1988, to submit comments. In response to the proposed rule 15 comments were received from individuals, a farm mediation service, farm organizations and other special-interest groups. Most of the comments covered a broad range of subjects relating to the proposed rule. The agency is adopting many of the suggestions made in these comments, and the changes resulting in the text of the rule will be discussed subsequently in the section of this preamble concerning Significant Changes. Other suggestions, which are described below, the agency will not adopt. These are as follows:

1. It was suggested that the agency permit the use of matching grant funds to provide legal and financial counseling to farmers before the mediation process begins. This the agency cannot do, since the statute establishing the program quite specifically limits compensation to expenses incurred in "mediation," and does not include financial counseling which is not provided during the mediation.

2. It was suggested that FmHA should not have been selected by the Secretary of Agriculture as the agency to decide whether State programs qualify for certification and to administer the grant program for such programs, since FmHA, being involved in mediations as a creditor, would have a "conflict of interest" in its capacity of administrator of the program. This suggestion, of course, is technically outside the scope of this rulemaking proceeding, since FmHA has no power to amend a delegation made by the Secretary to itself. It must also be noted, however, that the selection of FmHA as the agency to administer this program has a logical basis because of FmHA's routine involvement in farm lending credit issues. Moreover, the proposition that FmHA would use the certification and grant administration process to coerce mediators into making recommendations favoring the recovery of FmHA debts ignores the fact that the statute quite specifically states that "The Secretary shall not be bound by any determination made in a program described in paragraph (1) (which refers to State mediation programs) if the Secretary has not agreed to such determination." (7 U.S.C. 5103(a)(2)). FmHA would have little incentive to use a mechanism as crude as reducing or withholding funds for an entire State program to attempt to influence individual mediation decisions that it is free to accept or reject in any event.

3. Some commenters argued that FmHA should amend its rules to provide that FmHA's participation in mediations should be mandatory even in States in which participation is voluntary for debtors and creditors generally. This FmHA declines to do. While it is true that it probably will be unusual for FmHA to decline to participate in a mediation, especially since the agency would never be obliged to accept the outcome in any event, the agency sees no reason to bind itself by regulation to participate in all cases. The statute clearly does not require that FmHA's participation in each mediation be mandatory, since the statute's mandatory language refers only to participation in "State agricultural loan mediation programs," not to participation in each and every mediation conducted pursuant to such programs.

4. The agency also will not adopt the suggestion that it impose a requirement in this regulation that private lenders whose loans are guaranteed by FmHA must participate in mediations. Those lenders will be subject to the mediation laws and rules governing private lenders in each State, and the imposition of a requirement in this rule is unnecessary and potentially confusing. Moreover, FmHA would not, as a matter of policy, want to impose a special requirement concerning mediation on those lenders because their loans are guaranteed by FmHA. The guaranteed loan program is intended to provide a vehicle for increasing private sector participation in the provision of agricultural credit, and that goal is best achieved by keeping governmentally-imposed special conditions and restrictions to an absolute minimum.

5. Several comments suggested the imposition of a specific minimum number of annual hours of training for mediators in each State, and specific rules requiring the provision of brochures, broadcast announcements, and notification of mediators' names, addresses and phone numbers on foreclosure notices, also were suggested. The agency declines to adopt these suggestions, which would attempt to micro-manage each State's program and operations in ways that the statute does not seem to contemplate. Congress did not intend FmHA or any other Federal agency to operate a uniform, nationwide, mediation program, but rather confined the Federal role to providing limited financial support to State-run programs that satisfy the statutory criteria. The number of hours of training that may be necessary in one program may not be necessary in another, since prior experience of the mediators and the complexity of the

programs may well vary from one State to another. Similarly, the best method of ensuring that adequate notice is given to borrowers should be left to the States, and the circumstances of the States clearly vary here as well. FmHA will not hesitate to impose detailed requirements, by rule or otherwise, if problems develop in actual practice. But attempts to anticipate such problems in advance are too likely to lead to burdensome and needlessly-detailed regulation.

6. The agency, for similar reasons, will not establish detailed requirements for the annual reports that the statute requires each State to submit. Our experience, although it is limited, with the materials submitted by the various States in support of their applications for certification suggests that the States are quite competent to obtain necessary information without detailed guidance. If it appears that specific information is needed that is not being provided in those annual reports, FmHA will not hesitate to require its submission. But we do not know at this time what specific problems, if any, may develop, and fear that attempting to anticipate such problems could be counterproductive.

7. The agency similarly concludes that the rules should not be amended to attempt to provide more detailed conditions and restrictions concerning the sanctions to be imposed for possible non-compliance with requirements for the use of matching grant funds, nor should the rule go into such details as to whether capital expenditures for used equipment, should be permitted. The departmental regulations governing grant administration are quite extensive and specific, and FmHA does not now have any reason to believe that even more specific guidance is possible at this time. Here again, the agency concludes that regulatory conditions and restrictions adopted in advance of known problems could be counterproductive.

The significant changes are as follows:

Part 1946—Mediation

Subpart A—Agricultural Loan Mediation Program

Section 1946.1 has been partially revised in paragraph (b) to make an editorial change and to show that FmHA will comply with requests for information and analysis.

Section 1946.4(d) has been partially revised to clarify the method of distributing matching grant funds to qualifying States.

Section 1946.4(e)(2) has been partially revised to show that detailed cost estimates are to be provided by a State on the operation and administration of its agricultural loan mediation program.

Section 1946.4(g)(1) has been partially revised to require FmHA to notify a Governor or Head of a State Agency within 15 days after receipt of an application for a grant if additional information/clarification is needed.

Section 1946.5(a) has been partially revised to show that this program will be monitored by the FmHA Assistant to the Assistant Administrator for Farmer Programs in lieu of the Emergency Designation Staff.

Section 1946.7 has been partially revised to make an editorial change in the title.

Section 1946.8 has been partially revised to change the delegation of authority from the Staff Director, Emergency Designation Staff, to the Assistant to the Assistant Administrator for Farmer Programs.

This program/activity will be listed in the Catalog of Federal Domestic Assistance under No. 10.435, Agricultural Loan Mediation Program. This program is being proposed for exclusion from the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, 48 FR 29112, June 24, 1983, and 7 CFR Part 1940, Subpart J, "Intergovernmental Review of Farmers Home Administration Programs and Activities.")

List of Subjects in 7 CFR Part 1946

Federal-State Relations, Grant Programs-Agriculture, Mediation.

Accordingly, FmHA adds a new Part 1946 consisting of Subpart A, to Chapter XVIII, Title 7, of the Code of Federal Regulations as follows:

PART 1946—MEDIATION

Subpart A—Agricultural Loan Mediation Program

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Agricultural Loan Mediation Program

§ 1946.1 General.

(a) This subpart provides procedures for administration of the agricultural loan mediation program whereby a State may be certified by the Farmers Home Administration (FmHA) as a qualifying State for purposes of FmHA and other USDA agencies' participation in the program. Such certification is also necessary for a State to receive Federal matching grant funds to be used for the operation and administration of the State's agricultural loan mediation program.

(b) FmHA will participate in mediations conducted pursuant to a State's agricultural loan mediation program under the same terms and conditions applicable to agricultural creditors generally, and will cooperate in good faith in such mediations by complying with requests for information and analysis, and in presenting and exploring debt restructuring proposals, wherever feasible, when that State is and remains a qualifying State as defined in § 1946.2(b) of this subpart.

§ 1946.2 Definitions.

(a) *Agricultural Loan Mediation Program.* A State authorized or administered program which meets the requirements for certification outlined in § 1946.3(a)(2) (i) through (v) of this subpart.

(b) *Qualifying State.* A State which has been certified by FmHA as having an agricultural loan mediation program which meets the requirements outlined in § 1946.3(a)(2) (i) through (v) of this subpart, provided the State's certification has not expired or been withdrawn under the provisions of § 1946.5(c) of this subpart.

§ 1946.3 Process for certification.

(a) No later than August 1, of each year, the Governor of a State or Head of a State agency designated by the Governor of a State must submit a written request to the FmHA if the State wishes to be certified as a qualifying State for the purposes of FmHA participation in the State's program and for the State to receive a matching grant to be used for the operation and administration of the program within the State during the fiscal year commencing October 1 of that same year. The request must include:

(1) A description of the State's agricultural loan mediation program.

(2) Documentary information to support the request and a certification by the Governor or Head of a State

agency designated by the Governor that the State's agricultural loan mediation program:

(i) Provides for mediation services to be provided to producers, and their creditors, that, if decisions are reached, result in mediated, mutually agreeable decisions between the parties under the program;

(ii) Is authorized or administered by an agency of the State government or by the Governor of the State;

(iii) Provides for the training of mediators;

(iv) Provides that the mediation session shall be confidential; and

(v) Ensures that all lenders and borrowers of agricultural loans receive adequate notification of the mediation program.

(b) If the State is a qualifying State at the time the written request is made, the written request need only describe the changes to the program since the previous year's request together with such documentary support as may be necessary concerning such changes, as well as a certification that the remaining elements of the program remain as described in the previous application.

(c) The request for certification should be mailed to:

Administrator, Farmers Home Administration, U.S. Department of Agriculture, 14th Street and Independence Avenue SW., Room 5014, Washington, DC 20250.

(d) If a matching grant is requested in accordance with § 1946.4 of this subpart, the request for certification also must include the information required by § 1946.4 (e)(2) of this subpart.

(e) Within 15 days from receipt of the request for certification, the Administrator will notify the State Governor or Head of a State agency designated by the governor whether or not the State is certified as a qualifying State as defined in § 1946.2(b) of this subpart, or, if additional information or clarification is needed to make the determination, the Administrator will advise the State Governor or Head of a State agency of the additional information or clarification needed. Upon receipt of the additional information or clarification requested, the Administrator will respond within 15 days from the date of receipt.

§ 1946.4 Matching grants

(a) *Administration of grants.* FmHA will administer the program in accordance with the requirements of 7 CFR Parts 3015 and 3016. Any State requesting a grant must comply with the provisions of those regulations.

(b) *Source of funds.* All grants awarded to qualifying States will be made from appropriated funds specifically for this program. A statement of the amounts appropriated, obligated, and remaining available for the program at any particular time will be given to any person upon request to FmHA.

(c) *Amount of grant.* A grant will not exceed 50 percent of the total fiscal year funds that a qualifying State requires to operate and administer its Agricultural Loan Mediation Program which has been certified by the Administrator as meeting the requirements of § 1946.3 (a)(2) (i) through (v) of this subpart. In no case will the total amount of a grant exceed $500,000 annually.

(d) *Distribution criteria.* If funds for grants are appropriated on a fiscal year basis, funds will be obligated on a pro-rata basis to all States whose programs are certified at the beginning of the fiscal year. States certified after the beginning of the fiscal year will receive a share of funds not previously obligated. If, however, when funds for a fiscal year become available, there are not sufficient funds to give all qualified States 50 percent of their justified estimated expenses for the fiscal year, the percentage allocation to each State will be reduced so as to give all States the same percentage of their expenses. If after the percentage calculation any State's allocation still exceeds $500,000, that State's share will be further reduced to $500,000 and the remaining States' shares will be increased by the same percentage.

(e) *Eligibility criteria for amount of grant requested.* To be eligible to receive the amount of grant requested, a State must:

(1) Have an Agricultural Loan Mediation Program that has been certified by the Administrator in accordance with § 1946.3 of this subpart, which certification has not been withdrawn in accordance with § 1946.5 (c) of this subpart.

(2) Provide detailed estimates of the costs of operating and administering the State's Agricultural Loan Mediation Program.

(f) *Grant purposes.* (1) Grants made under this subpart will be used solely for the operation and administration of the State's Agricultural Loan Mediation Program. There is no other authorized use of grant funds. Eligible costs are limited to those allowable under 7 CFR 3016.22 that are reasonable and necessary to carry out the mission of the State's Agricultural Loan Mediation Program in providing mediation services for agricultural producers and their creditors within the State, such as:

(i) Salaries of professional, technical, and clerical staffs;

(ii) Payment of necessary, reasonable office expenses such as office rental, office utilities, and office equipment rental;

(iii) Purchase of office supplies;

(iv) Payment of administrative costs, such as workers' compensation, liability insurance, employer's share of social security, and travel that is necessary to provide mediation services;

(v) Training for mediators; and

(vi) Secretary systems necessary to assure confidentiality of mediation sessions.

(2) Grant funds may not be used for:

(i) The purchase of capital assets, real estate, or vehicles or repair and maintenance of privately-owned property;

(ii) Political activities; and

(iii) Routine administrative activities not allowable under OMB Cost Principles.

(g) *Application processing.* (1) FmHA will have 60 days from the date of certifying a State as a qualifying State to review the State's application and supporting information for a grant, mail the obligation document to the responsible State Government official for signature, to obligate funds, and notify the State of approval. In any case where additional information/clarification is needed for processing a grant application, the 60-day time limit will begin on the date the additional information of clarification is received. FmHA will notify the Governor or Head of a State agency within 15 days of receipt of the application for a grant if information/clarification is needed.

(2) A State requesting a matching grant will submit to the Administrator:

(i) Standard Form 424, "Federal Assistance." The application form can be obtained from any FmHA office.

(ii) The information prescribed in paragraph (e)(2) of this section.

(h) *Grant approval.* (1) The Administrator will notify the Governor or Head of the State agency designated by the Governor of grant approval by mailing, on the obligation date, a copy of the completed Form FmHA 1940-1, "Request for Obligation of Funds." The Form FmHA 1940-1 will indicate that the grant is subject to the requirements of 7 CFR Parts 3015 and 3016, this subpart, and will cite any special grantee conditions.

(i) *Fund disbursement or grant termination or major changes.* (1) Qualifying States approved to receive matching grants under this subpart will receive payment in accordance with 7 CFR Parts 3015 and 3016.

(2) In the case of a grant reduction, termination or withdrawal of

certification, in accordance with § 1946.5 (c) of this subpart, or major changes in the scope of the State's Agricultural Loan Mediation Program, the Administrator, or designee, will execute Form FmHA 1940–10, "Cancellation of U.S. Treasury Check and/or Obligation," to stop further disbursement of funds under the Grant Agreement.

(j) *Financial management systems and reporting requirements.* (1) States receiving grants must comply with standards for the financial management and reporting and program performance reporting found in 7 CFR Parts 3015 and 3016.

(2) Qualifying States receiving matching grants must provide to the FmHA State Office by September 30 an annual report on:

(i) The effectiveness of the State's Agricultural Loan Mediation Program;

(ii) Recommendations for improving the delivery of mediation services to producers; and

(iii) The savings to the State as a result of having an Agricultural Loan Mediation Program.

(3) FmHA State Offices will include any comments or recommendations regarding the State's Agricultural Loan Mediation Program and mail the information to the Administrator no later than November 1.

§ 1946.5 Monitoring compliance and penalty for non-compliance.

(a) *FmHA monitoring.* The FmHA Assistant to the Assistant Administrator, Farmer Programs, will monitor compliance of the State's Agricultural Loan Mediation Program through the reports received in accordance with § 1946.4(j) of this subpart, through information received from FmHA field offices and the public, and through on-site visits to observe the operation and administration of the program.

(b) *Audit.* The qualifying State is subject to the audit requirements of 7 CFR Parts 3015 and 3016 of this chapter. An audit report will be submitted to the FmHA Administrator annually or biennially as applicable in accordance with OMB Circular A–128 by each qualifying State receiving a grant.

(c) *Penalty for non-compliance.* If the Administrator determines that a State's Agricultural Loan Mediation Program does not meet or no longer meets the requirements set out in § 1946.3(a)(2) (i) through (v) of this subpart for certification or, that grant funds are not being used only for the operation and administration of the State's Agricultural Loan Mediation Program, the FmHA Administrator is authorized to withdraw the certification of the program and terminate additional grant assistance and/or to impose any penalties or sanctions established in 7 CFR Parts 3015 and 3016. In the event that the penalty for non-compliance is enforced, the FmHA and other USDA agencies will cease to participate in mediations conducted by the State Agricultural Loan Mediation Program. If the penalty for noncompliance is enforced, the reason(s) will be included in a letter to the Governor or Head of the State agency along with appeal rights under Subpart B of Part 1900 of this chapter.

§ 1946.6 Nondiscrimination

The provisions of 7 CFR 1901 Subpart E, "Civil Rights Compliance Requirements," 7 CFR Part 15, "Nondiscrimination in Federally-Assisted Programs of the Department of Agriculture-Effectuation of Title VI of the Civil Rights Act of 1964," 7 CFR Part 15b, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefitting from Federal Financial Assistance," and 45 CFR Part 90, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," apply to activities financed by grants made under this subpart.

§ 1946.7 Environmental requirements.

Environmental requirements are not applicable to this subpart.

§ 1946.8 Delegation of authority.

The Administrator hereby delegates the authority for processing applications and administering grants under this subpart to the Assistant to the Assistant Administrator, Farmer Programs.

§§ 1946.9–1946.49 [Reserved]

§ 1946.50 OMB control number.

The collection of information requirements in this regulation have been approved by the Office of Management and Budget and assigned OMB control number 0575–0125. In accordance with 5 CFR Part 1320, summarized below is the annualized public reporting burden for this regulation:

Section of regulations	Title	Form No. (if any)	Established number of respondents	Reports filed annually	Total annual responses (d) x (e)	Established number of manhours per response	Established total manhours (f) x (g)
(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)
Reporting Requirements/No Forms							
1946.3(a)	Request for certification	NONE	15	On occasion	15	4	60
1946.3(b)	Reverification of Approval	NONE	10	On occasion	10	2	20
1946.4(e)(2)	Eligibility criteria for amount of grant requested.	NONE	10	On occasion	10	2	20
1946.4(c)	Financial management systems and reporting requirements.	NONE	10	1	10	8	80
1946.5(b)	Audit report	NONE	10	1	10	16	160
Reporting Requirements Approved Under Other Dockets							
1946.4(g)(2)	Application for Federal Assistance	SF 424 (0348–0006)	15	On occasion	15	2	30
Docket Total.					70		370

Vance L. Clark,

Administrator, Farmers Home Administration.

Dated: August 9, 1988.

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